

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

DANIEL MITCHELL, et al.,

Plaintiffs,

v.

CHARLES ATKINS, in his official
capacity as the Sheriff of Clark County, et
al.,

Defendants.

NO. 3:19-cv-5106

DECLARATION OF
ZACHARY PEKELIS JONES IN
SUPPORT OF DEFENDANT
BERNTSEN'S MOTION TO
EXCLUDE EXPERT
TESTIMONY OF
SHERIFF OZZIE KNEZOVICH

1. I am an Assistant Attorney General in the Complex Litigation Division of the Office of the Attorney General. In that capacity, I am one of the attorneys representing the Department of Licensing in the above-captioned case. I am at least 18 years of age, competent to testify as a witness, and have personal knowledge of the facts related in this declaration.

2. Attached as Exhibit A is a true and correct copy of the Report of Sheriff Ozzie Knezovich, which Plaintiffs produced as part of their expert disclosures pursuant to Federal Rule 26(a)(2)(B) on December 18, 2019. The Report was marked and referenced in Sheriff Knezovich's February 4, 2020 deposition as Deposition Exhibit No. 49.

3. Attached as Exhibit B is a true and correct copy of the excerpted transcript of the Sheriff Knezovich's deposition, which was taken on February 4, 2020.

1 4. Attached as Exhibit C is a true and correct copy of an article dated January 31,
2 2019 published online by KHQ News, entitled “Spokane County Sheriff Ozzie Knezovich:
3 ‘1639 is unconstitutional at the State and Federal level.’” This article was marked and
4 referenced in Sheriff Knezovich’s deposition as Deposition Exhibit No. 54.

5 5. Attached as Exhibit D is a true and correct copy of a set of documents Plaintiffs’
6 counsel Matthew Albrecht presented to me upon arriving at Sheriff Knezovich’s deposition.
7 The complete set documents totaled 396 pages and was marked and referenced in Sheriff
8 Knezovich’s deposition as Deposition Exhibit No. 48.

9 6. Attached as Exhibit E is a true and correct copy of the table of contents to the
10 set of documents attached as Exhibit D. The table of contents was marked and referenced in
11 Sheriff Knezovich’s deposition as Deposition Exhibit No. 47.

12 7. Attached as Exhibit F are excerpts of a true and correct copy of a set of
13 documents that Sheriff Knezovich brought with him in a binder to his deposition. The complete
14 set of documents totaled 115 pages and was marked and referenced in Sheriff Knezovich’s
15 deposition as Deposition Exhibit No. 64.

16 8. Attached as Exhibit G are excerpts of a true and correct copy of an additional
17 set of documents that Sheriff Knezovich brought with him to his deposition in a separate
18 binder. The complete set of documents totaled 437 pages and was marked and referenced in
19 Sheriff Knezovich’s deposition as Deposition Exhibit No. 65.

20 9. On March 6, 2020, I emailed Plaintiffs’ counsel regarding deficiencies in their
21 expert disclosures and Sheriff Knezovich’s qualifications and opinions. Specifically, I objected
22 to Plaintiffs’ reliance on Sheriff Knezovich as an expert witness on five grounds: First,
23 Plaintiffs had not timely disclosed all “facts or data considered” by Sheriff Knezovich, Fed. R.
24 Civ. P. 26(a)(2)(B)(ii). Second, Plaintiffs had not produced any communications between the
25 Sheriff and Plaintiffs’ counsel, which are discoverable, *see* Fed. R. Civ. P. 26(b)(4)(C), and
26 which the Director had specifically requested in discovery. Third, I objected to the Sheriff’s

1 qualifications because he lacks expertise in the subject matter on which he opines in his report.
 2 Fourth, I objected that the Sheriff's opinions are not based on sufficient "facts or data," as
 3 required by Federal Rule of Evidence 702(b). Fifth, I objected that the Sheriff's opinions are
 4 not based on "reliable principles and methods . . . reliably applied . . . to the facts of the case."
 5 Fed. R. Evid. 702(c)–(d). I sought to meet and confer telephonically with Plaintiffs' counsel
 6 regarding my objections. Plaintiffs' counsel disputed some of my objections by letter but
 7 declined to conduct a telephone conference, taking the position that there is no meet-and-confer
 8 requirement for *Daubert* motions. Attached as Exhibit H is a true and correct copy of my email
 9 correspondence with Plaintiffs' counsel.

10 10. Attached as Exhibit I is a true and correct copy of the Director's Second Set of
 11 Interrogatories and Requests for Production to Plaintiffs Daniel Mitchell and Robin Ball.

12 11. Attached as Exhibit J is a true and correct copy of an email correspondence
 13 between me and Plaintiffs' counsel Joel Ard on Monday, January 27, 2020.

14 12. I declare under penalty of perjury under the laws of the State of Washington
 15 that the foregoing is true and correct.

16 DATED this 10th day of March 2020.

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 18 /s/ Zachary Pekelis Jones
 19 ZACHARY PEKELIS JONES
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